

REMARKS/ARGUMENTS

Favorable reconsideration and allowance of this application are respectfully requested. Claims 1-24 and 104-111 are pending for examination. Applicant submits that new claims 104-111 are directed to the elected invention.

Claims 1-6, 9-14 and 17-22 stand rejected under 35 U.S.C. §102(b) as being anticipated by Lipson (U.S. Pat. 5,435,554). Applicant traverses this rejection.

Anticipation under Section 102 of the Patent Act requires that a prior art reference disclose every claim element of the claimed invention. See, e.g., *Orthokinetics, Inc. v. Safety Travel Chairs, Inc.*, 806 F.2d 1565, 1574 (Fed. Cir. 1986). Lipson fails to disclose every claim element of the claimed invention. For example Lipson fails to disclose or even suggest the series of steps required by independent claim 1, including: 1) beginning a wind-up; 2) after the wind-up has begun, monitoring for input; 3) detecting input requesting release of the baseball pitch; 4) comparing user input timing to an optimal timing; and 5) releasing the pitch at the time the indication input is detected. Similar comments apply to independent claim 9. Lipson also fails to disclose “as the pitcher character’s windup progresses, monitoring for user input on the user-operable controller requesting release of a baseball pitch by the pitcher character” and “comparing the detected position of the release meter to the target...and controlling when a break

on the baseball pitch occurs during its flight based on the comparison,” as required by independent claim 17.

There is no teaching or suggestion in Lipson that a wind up is begun before any detection occurs. For example, Lipson explicitly discloses receiving user inputs for the pitch only prior to the pitch (see, e.g., col. 10, lines 42-43 stating “Once the power of the pitch has been set, a final pre-pitch input is made in state 146 (emphasis added).”)

In fact, Lipson tends to teach away from monitoring user input for pitch release after the pitcher has already begun wind-up. Lipson discloses multiple, serially-displayed gauges 66, 82. Each of the gauges 66, 82 includes a respective indicator 74, 86 that repeatedly resets and rotates until a player presses a button (see, e.g., col. 6, lines 59-65). If the pitcher had already begun the windup before Lipson’s meters were displayed, either the windup would have to pause or the user would have to choose too quickly, defeating the purpose of the repeated reset and rotation of the indicators 74, 86 on the gauges 66, 82. Since Lipson also teaches that several gauges are serially displayed (for example, gauge 82 is displayed after display and selection in gauge 66 as described in col. 7, lines 34-36), it would be incredibly difficult, if not impossible, for the user to make selections in all the gauges and the system to perform the associated processing during the brief duration of a pitcher’s windup.

Additionally, claims 1 and 17 require releasing the ball at a point corresponding to when user input is detected. In contrast, Lipson fails to teach or suggest, for example, that a ball is displayed as being released at different points in a pitcher's windup. Further, there is no teaching or suggestion in Lipson that a release point corresponds to a detected input, such that the release occurs at a point when the input is detected.

Applicant therefore requests withdrawal of the rejection of claims 1-6, 9-14 and 17-22 under 35 U.S.C. §102 over Lipson.

Claims 7-8, 15-16 and 23-24 stand rejected under 35 U.S.C. §103(a) as being unpatentable over Lipson. Claims 7-8, 15-16 and 23-24 are deemed to be allowable based at least on their dependency from allowable independent claims.

Claims 104-110 are also believed to be in condition for allowance over the prior art of record. For example, independent claim 104 requires, *inter alia*, “after the display of the pitcher character's wind-up has begun, monitoring for user input on the user-operable controller indicating that a pitch is to be released by the pitcher character...displaying release of the pitch at the time the user input is detected, the ball being released at a release point based at least on how long until the user input is detected since the pitcher character's wind-up has begun; and controlling a timing of a break on the baseball pitch based on the comparison.”

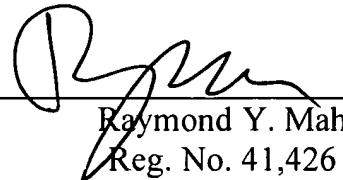
Applicant believes that all claims are in condition for allowance and respectfully requests a notice to this effect. If the Examiner has any questions or

STERCHI et al.
Application No. 10/821,269
April 17, 2008

believes that an interview would further prosecution of this application, the Examiner is invited to telephone the undersigned.

Respectfully submitted,

NIXON & VANDERHYE P.C.

By: 
Raymond Y. Mah
Reg. No. 41,426

RYM/BPT:lmj
901 North Glebe Road, 11th Floor
Arlington, VA 22203
Telephone: (703) 816-4408
Facsimile: (703) 816-4100